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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER **Art Unit:** 2834
Serial No.: 09/935,936
Filed: August 23, 2001
For: Energy Conversion Technique **Examiner:** Nicolas Ponomarenko

Fourth Supplemental Appeal Brief Under 37 CFR ¶41.37(c) and 41.67

Honorable Commissioner of Patents and Trademarks
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

This Fourth Supplemental Appeal Brief is submitted in response to the October 13, 2005 "Notification of Non-Compliant Appeal Brief". This Notification addressed non-compliance with the requirements of 37 CFR ¶41.37(c) of Applicant's "Third Supplement Appeal Brief Under 37 CFR ¶1.193(b)(2)(ii)"[sic] filed August 29, 2005.

Accordingly, this Fourth Supplemental Appeal Brief is herewith submitted in order to satisfy the requirements of 37 CFR ¶41.37(c).

This appeal was filed when appellate Rules ¶1.191 to ¶1.196 were in force. These Rules subsequently were supplanted by Part 41 of the Rules of Practice. Consequently, the individual Arguments advanced in this Fourth Supplemental Appeal Brief are addressed to whichever of the particular Rules, either the older, repealed Rules or the Part 41 Rules, were cited with respect to a specific issue in the Official Actions mailed after applicant's first Appeal Brief was filed.

Applicant respectfully urges, however, that for any specific issue considered in this Brief the substantive result in the same under either of the two sets of appellate rules.

To proceed in a step-wise manner, it first should be noted with respect to 37 CFR ¶41.31(a) and ¶41.37(a)(1) and (2) and (c) that applicant filed a timely notice of appeal from the July 24, 2003 final rejection of all eight claims standing in this case. Applicant further lodged a timely appeal brief on January 7, 2004. The fees for these two filings that were in effect at the time these papers were filed also were paid to the Patent and Trademark Office on October 2, 2003 and January 7, 2004, respectively. As a result, all fees attendant on this appeal have been paid to date and no further fees are chargeable to the appeal at this writing.

In further compliance with 37 CFR ¶41.37(c)(1)(i) through (x), attached herewith are the required headings in the order specified under ¶41.37(c). For ease of reference, below is a table of paragraphs, headings and appendices with relative page numbers:

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Through the course of the prosecution of the application under consideration, apart from the Official Action dated July 24, 2003 finally rejecting all eight claims standing in the case, communications were mailed from the Patent and Trademark Office each raising new issues and compelling applicant to file a sequence of supplemental appeal briefs on the following dates:

Office Communications Mailed

June 7, 2004
September 15, 2004
July 5, 2005

Supplemental Appeal Briefs Filed

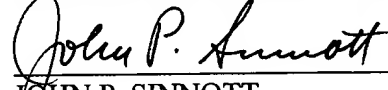
June 29, 2004
January 13, 2005
August 29, 2005

Consequently for the purpose of clarity in presentation the issues and arguments addressed in this Fourth Supplemental Appeal Brief are arranged in chronological order, commencing with the final rejection of July 24, 2003.

After thorough consideration of the matter presented herein by the Board of Patent Appeals and Interferences, early allowance of Claims 1 through 8 now standing in the case is earnestly solicited.

Respectfully submitted,

LANGDALE & VALLOTTON, LLP



JOHN P. SINNOTT
Attorney for Applicant
US Patent and Trademark
Office Registration No. 21,001

November 14, 2005
PO Box 1547
1007 N. Patterson Street
Valdosta, GA 31603-1547
P:(229) 244-5400
F:(229) 244-5475

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER Art Unit: 2834

Serial No.: 09/935,936

Filed: August 23, 2001

For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Paragraph Heading 37 CFR §41.37(c)(1)(i)

Real party in interest:

Donald Gilbert Carpenter

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Paragraph Heading 37 CFR ¶41.37(c)(1)(ii)

Related appeals and interferences:

None

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Paragraph Heading 37 CFR §41.37(c)(1)(iii)

Status of claims:

All of the eight claims now standing in this proceeding, Claims 1 through 8, inclusive, were finally rejected in the Official Action mailed from the Patent and Trademark Office on July 24, 2003.

Rejected claims 1 through 8, inclusive, are under appeal.

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Serial No.: 09/935,936

Filed: August 23, 2001

For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Paragraph Heading 37 CFR §41.37(c)(1)(iv)

Status of amendments:

No amendments have been filed in this case subsequent to the July 24, 2003 final rejection.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER Art Unit: 2834

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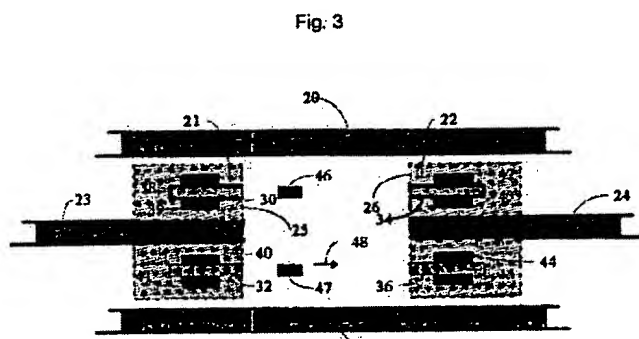
Filed: August 23, 2001

For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Paragraph Heading 37 CFR §41.37(c)(1)(v)

Summary of claimed subject matter:

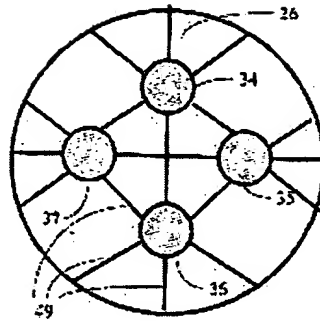
As illustrated in Fig. 3



Claims 1 and 2: apparatus for converting kinetic energy into electrical energy has a first moving system 21 and a second moving system 22 (Specification, p. 18, para. 73, lines 21 to 25). The second moving system 22 moves toward and away from the first moving system 21 (Specification, p. 18, para. 73, line 25 to p. 19, line 5).

Objects 46, 47 are ejected electromagnetically by ejectors 38, 40 from respective openings 30, 32 in face 25 of the moving system 21 in the direction of arrow 48 (Specification, p. 19, para. 74, lines 6 to 14). The openings 30, 32, in the face of the first moving system, are aligned with receptor openings 35, 37 (Fig. 5).

Fig. 5

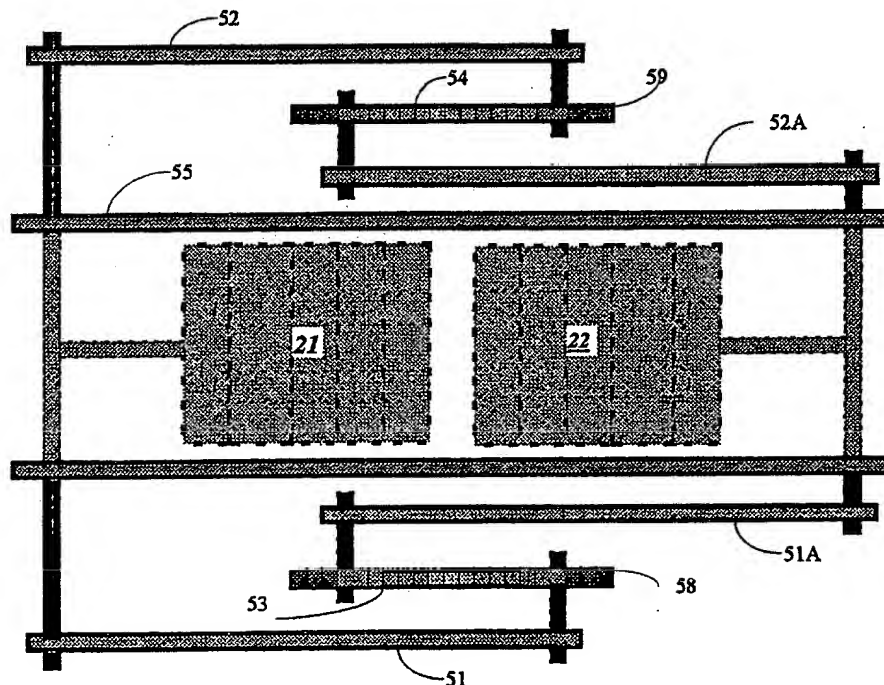


in the second moving system 22 (Specification, p. 17, para. 74, lines 17 to 21).

Claims 3, 5 and 6: the objects 46, 47 (Fig. 3) are magnetized (Specification, p. 18, para. 76, lines 20 to 25). The openings 35, 37 in the second moving system 22, moreover, house respective receptor conductive coils (only receptor coils 43, 44 are shown in the drawing) for converting the kinetic energy of the individual incoming objects 46, 47 into electrical energy (Specification, p. 17, para. 74, lines 9 to 21).

Claim 4: Among alternative embodiments of the invention, attention is invited to Fig. 6:

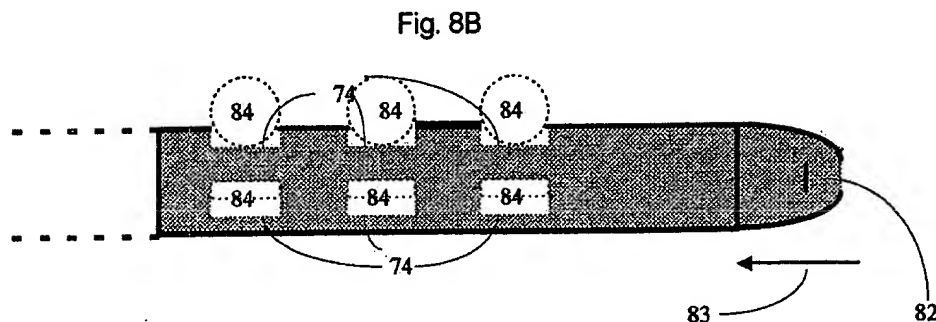
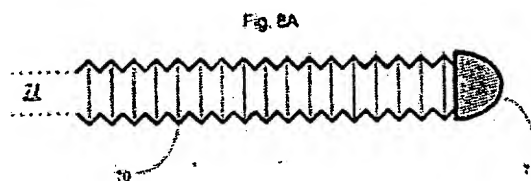
Fig. 6



which shows rods (unnumbered) that extend to both of the moving systems 21, 22. At the same time, the moving systems 21, 22 are each connected, respectively, to drive shafts 51, 52 and 51A, 52A (Specification, p. 23, para. 93, lines 15 to 20).

Claim 7: Illustrated, moreover, in connection with this alternative embodiment of the invention is fly-wheel 53, coupled to the drive shafts 51, 51A and a fly-wheel 54, coupled to the drive shafts 52 and 52A (Specification, p. 23, para. 93, lines 20 to 22). Gear teeth 58 on the fly-wheel 53 and gear teeth 59 on the fly-wheel 54 are provided for electrical or kinetic energy generation (Specification, p. 23, para. 93, line 30 to p. 24, line 2 and p. 24, para. 95, lines 24 and 25).

Turning now to Figs. 8A and 8B



Claim 8: An alternative rod 71 can be used in substitution for the objects 46, 47 illustrated in Fig. 3. Thus, as shown in Fig. 8A, teeth 70 along the length of the rod 71 form a rack that engages (Fig. 8B) pinion gears 84 (Specification, p. 25, para. 99, line 26 to p. 26, line 15). The functions served by the rod 71 are four-fold.

1. Electric motors (not shown in the drawing) drive the pinion gears 84 to eject the rod 71 from its associated moving system;
2. The electric motors are driven during a reverse reciprocation by the action of the rack 70 and pinion gears 84 to change their function and act as dynamos to produce electrical power;
3. The gears 84 can freewheel, if the purpose is to provide release of the rod 71; and

4. To remain motionless, with respect to the associated moving system in that part of the cycle in which the moving systems 21, 22 (Fig. 3) draw away from each other and move toward each other.

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Paragraph Heading 37 CFR §41.37(c)(vi)

Grounds of rejection to be reviewed on appeal:

a) July 24, 2003 Final Rejection:

1. Claims 1 through 8 rejected under 35 U.S.C. 101 as inoperative because they contradict the doctrine of conservation of energy; and
2. Applicant is required to furnish a working model of his invention under Manual of Patent Examining Procedure (MPEP) ¶608.03.

b) June 7, 2004 Official Action:

1. Appeal is alleged to be dismissed because the Examiner attempted to reopen prosecution under 37 CFR 1.114; and
2. Appeal is dismissed on the ground that Appeal Brief was not fully responsive to the final rejection, i.e. applicant's failure to furnish a working model, citing 37 CFR ¶1.193.

c) September 15, 2004 Official Action:

1. Claims 1 through 8 are rejected under 37 CFR 1.83(a) in that the drawing does not show every feature specified in the claims;
2. The specification is objected to under 37 CFR 1.71 because it does not contain a description of the invention adequate to enable a person skilled in the art to make and use the invention, e.g. the disclosure is replete with statements that are confusing, incorrect or contradict laws of physics;
3. Claims 1 through 8 are rejected under 35 USC 101 on the ground that the claims are not supported by an asserted utility;
4. Claims 1 through 8 are rejected under 35 USC 112 on the ground that one skilled in the art would not know how to use the invention and the claimed invention is not supported by a clearly asserted utility; and
5. Applicant is required to furnish a working model of the invention under MPEP ¶608.03; 37 CFR 1.91.

d) July 5, 2005 Official Action:

1. The brief does not satisfy the requirements of 37 CFR 41.37(c)(1); and

2. Applicant's Declaration Under 37 CFR 1.132 is "moot" and is not considered evidence to overcome the rejection under 37 USC §101 (cf MPEP §608.03 and 37 CFR 1.96).

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For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Paragraph Heading 37 CFR ¶41.37(c)(vii)

Argument:

a) July 24, 2003 Final Rejection:

1. Claims 1 through 8 are rejected under 35 USC 101 as inoperative because they contradict the doctrine of conservation of energy:

Rejection under 35 USC 101: To reject all eight claims on appeal, the position has been asserted that the invention is inoperative because it contradicts the principle of conservation of energy (Final Rejection 7/24/03, p. 2, para. 2, lines 5 to 8). Further in this respect, the principle of conservation of energy is restated in the final rejection as a "... statement that the sum total of the energy of the universe is a fixed and unalterable quantity." (Final Rejection 7/24/03, p. 2, para. 2, lines 10 to 12).

Ordinarily, it is sufficient to say that energy cannot be created or destroyed. In reference to the universe, however, this commonly accepted reference to a principle of conservation of energy is not correct. The proper "conservation" statement is as a principle of mass/energy conservation, because mass and energy are interchangeable, energy being equal to the product of mass and the square of the speed of light:

$$E = mc^2$$

where:

E = energy

m = mass

c = speed of light.

Attention in this respect is invited to the McGraw-Hill Dictionary of Scientific and Technical Terms, Fifth Edition, S.P. Parker, Ed., New York, 1994, p. 1217, which establishes the correct conservation definition as one of mass-energy conservation¹.

¹ Attachment A to the Appeal Brief filed January 7, 2004.

Further in support of the correct conservation statement, please note the following passage, quoted from "Theoretical Physics", F. Woodbridge Constant, Addison-Wesley Publishing Company, Inc., Reading, 1958, p. 317²:

"The basic conservation principle then is the *conservation of mass-energy*." (Author's italics)

Consequently, because of this interchangeability between mass and energy, it is not correct to state that the sum total of the energy in the universe is a fixed and unalterable quantity. As developed immediately below, moreover, it is even incorrect to revise the foregoing statement to read that the sum total of the mass/energy of the universe is a fixed, unalterable quantity.

For example, please consider carefully the following quotation from "Principles of Physical Cosmology, P.J.E. Peebles, Princeton University Press, Princeton, 1993, p. 139³:

However, since the volume of the universe varies as $a(t)^3$, the net radiation energy, in a closed universe decreases as $1/a(t)$ as the universe expands. Where does the lost energy go? .. The resolution of this apparent paradox is that while energy conservation is a good local concept, as in equation (6.18) , and can be defined more generally in the special case of an isolated system in asymptotically flat space, there is not a general global energy conservation law in general relativity theory.

Consequently, in accordance with information available on current developments in modern physics, the sum total of the energy or even mass/energy of the universe is *not* a fixed, unalterable quantity.

The Board's attention now is invited to a copy of a brief, popular science article published in the August, 2003 Edition of the "National Geographic" magazine⁴. This article summarizes in laymen's terms a number of current speculations by informed physicists about the size and nature of the universe.

None of these speculations can be construed to even suggest that "...the sum total of the energy of the universe is a fixed unalterable quantity." At best, the "National Geographic" article underscores the quandary in present cosmological thought about the character of the universe. Clearly, at this passage in our knowledge there is no support at all for any thought or conjecture about the status of the energy (or even mass/energy) composition of the universe.

Accordingly, applicant respectfully submits that the rejection of claims 1 through 8 for failure to satisfy the "utility" requirement under 35 USC Section 101 is based:

1. On a demonstrably inappropriate "conservation" statement. Properly expressed, it is a law of conservation of mass/energy and not a law of energy conservation; and

2 Attachment B to the January 7 Appeal Brief, p. 317.

3 January 7, 2004 Appeal Brief, Attachment B.

4 January 2, 2004 Appeal Brief, Attachment D.

2. The flawed attempt to interpret an inappropriate conservation statement to establish the sum total of the universe's energy is a fixed, unalterable quantity, is a position that directly contradicts current scientific analysis.

In this circumstance, applicant respectfully submits that the final rejection of claims 1 through 8, inclusive, for lack of utility under 35 USC Section 101 is based on an incorrectly stated physical principle that is invalid with respect to the universal environment to which it was applied in the final rejection and should be withdrawn.

2. Applicant is required to furnish a working model of his invention under MPEP ¶608.03.

The final rejection then concludes:

1. That the invention contradicts known scientific principles or relies on a previously undiscovered scientific phenomenon; and
2. That the burden shifts to applicant to demonstrate that the claimed invention is operable; or that the basic scientific principles are incorrect, or does not violate basic scientific principles.

The rejection then cites MPEP Section 608.03⁵, to support a requirement to furnish a working model of the invention.

In this connection, the interesting dichotomy that characterizes MPEP Section 608.03 should be considered:

Nature of the Objection	Proof of Operativeness
1. Perpetual motion machine	Working Model
2. Operativeness questioned	Applicant may choose his way of proving operativeness.

Although a gratuitous reference to perpetual motion machines is made in the final rejection, this remark is not applied either to the application or to the eight claims in issue. Consequently, under the terms of MPEP Section 608.03, there is no ground for requiring applicant to furnish a working model of his invention, and this requirement should be withdrawn.

The final rejection, however, does state that the description in the application is inoperative because it "contradicts known scientific principles". Applicant urges that the energy conversion analysis in the Rule 132 Declaration (Evidence Appendix) that applicant filed in response to the First substantive Official Action issued on this case clearly establishes not that the conservation law is wrong, but has been misapplied and restated in a manner contrary to current, informed thinking. In this respect, and in accordance with the specific provisions of MPEP Section 608.03, applicant exercised his right to prove "operativeness" through a simple physical experiment. This experiment was reported in detail in applicant's declaration under Rule 132 that was filed in the Patent and Trademark Office on March 7, 2003 (Evidence Appendix).

⁵ January 7, 2004 Appeal Brief, Attachment E.

Kindly note in Applicant's Rule 132 Declaration, the following salient points:

1. Applicant's professional credentials, illustratively; a doctorate in nuclear engineering; Associate Professor of Physics at the United States Air Force Academy for seven years; full professorships in physics and electrical engineering; recipient of the Theodore Von Karman Award for science and engineering; author of twenty-seven scientific books and papers certainly qualify the inventor as a person who knows whereof he writes (cf Rule 132 Declaration, p. 1, lines 3 to p. 2, line 4); and
2. The consequence of the experiment reported in the Rule 132 Declaration is that an extra increment of energy $2E_{2A}$, is observed and that this energy increment is not to be expected through the usual kinetic energy analysis of two bodies moving toward each other (cf Rule 132 Declaration, p. 4, line 11).

The final rejection, however, failed to address, rebut or refute this experimental data.

The explanation for this effect, as experimentally verified in the Rule 132 Declaration, is summarized in the application as filed, p. 2, para. 6, lines 7 to 11,

An illustrative embodiment of the invention arises from the fact that the kinetic energy of a system of masses in motion relative to each other is different from the kinetic energy of that same system when measured relative to some point outside of the 'moving' system (i.e. a 'stationary' system) that is receding or advancing relative to the 'moving' system.

In compliance with MPEP Section 1206, moreover, this rejection under 35 USC Section 101 does not require applicant to specify particular claim limitations to overcome the final rejection.

In summary, it is respectfully urged that:

1. In the universal terms stated in the final rejection, a law of conservation of energy is incorrect; and
2. To interpret the law of conservation of energy as establishing that the energy of the universe is a fixed, unalterable quantity is in complete disregard of the present state of scientific thought.

Ergo, the rejection of this application (and claims 1 through 8) as lacking "utility" under 35 USC Section 101 is in error and should be withdrawn.

Because the application is rejected on the ground that it describes an invention that contradicts known scientific principle, applicant has exercised his right under MPEP Section 608.03 to overcome this rejection by submitting a Rule 132 Declaration. In that Rule 132 Declaration, applicant, a scientist with outstanding professional credentials, produced data that demonstrated the appearance of an increment of energy, $2E_{2A}$, in accordance with the principles of the invention.

As a result, the Board is earnestly solicited to withdraw the working model requirement under MPEP Section 608.03, withdraw the rejection under 35 USC Section 101, and pass this application to issue.

b) June 7, 2004 Official Action:

1. The Appeal is dismissed because of an attempt to reopen prosecution under 37 CFR 1.114:

It is applicant's position that the attempt to reopen prosecution of this application under 37 CFR §1.114 "Request for Continued Examination" cited in the June 7, 2004 "Communication Re: Appeal", is a nullity. Briefly, Rule 114 applies only to those cases in which an applicant requests continued examination of an application after prosecution is closed.

Prosecution of this case was closed with the July 24, 2003 Final Rejection of all claims standing in the case.

Applicant, however, has not lodged a request for continued examination.

Consequently, an *ex parte* attempt to reopen examination of this application in the absence of an applicant lodged request for continued examination is beyond the terms of Rule 114 and necessarily must fail.

This application, therefore, continues under appeal.

2. The Appeal is dismissed in that the Appeal Brief was not fully responsive to the final rejection, i.e. applicant's failure to furnish a working model.

The June 7, 2004, Communication purports to:

1. Reopen prosecution "...pursuant to 37 CFR 1.114." (Communication regarding appeal, Page 1, 4.(c)); and
2. Dismiss the appeal as not fully responsive to the final office action.

I. Reliance on 37 CFR 1.114 to "reopen" prosecution

A copy of 37 CFR §1.114 "Request for Continued Examination" is attached to the "Request for Reinstatement of Appeal Under 37 CFR ¶1.193(b)(2)(ii)," filed June 29, 2004, Exhibit A.

This regulation applies only to those applications in which:

1. Prosecution is closed (e.g. under appeal or final action); and
2. Subject to a request for continued examination.

Applicant has not lodged a request for continued examination of this application.

Nowhere in 37 CFR §1.114 is there even a suggestion that an examiner can withdraw an

application from appeal and reopen prosecution in the absence of an applicant filed request for continued examination. With respect to the application under consideration, the purported action by the examiner to dismiss the appeal and reopen prosecution *sua sponte* is entirely beyond any possible interpretation of Section 1.114.

In this circumstance, applicant submits that this case is not before the examiner, but remains under appeal.

The failed attempt to reopen prosecution of this case under 37 CFR §1.114 for the reasons advanced in I, above, should be dispositive of all issues raised in the June 7 Communication. For completeness' sake, however, the positions taken in the June 7, 2004, "Communication Re: Appeal" with respect to 37 CFR §1.193 and 37 CFR §1.91 (2)[sic] Exhibit C attached to the June 29, 2004 Request for Reinstatement of Appeal nevertheless are analyzed.

As stated in the June 7 Communication:

Applicant(s) are required to furnish a working model of the claimed invention per 37 CFR 1.91(2) [sic] and (b) since it is deemed necessary [sic] for examination of the application.

Please note in 37 CFR §1.91 "Models or exhibits not generally admitted as part of application or patent" that there is no Section 1.91(2).

With respect to Section 1.91(b), however, the specific wording of this passage is relevant to the status of the application, thus:

...a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in *examination* of the application. [Emphasis supplied.]

Consequently, an application must be under examination in order to properly lodge a demand that applicant furnish a working model.

Having finally rejected all eight claims in this case in the July 24, 2003 Official Action and a Notice of Appeal having been lodged on October 2, 2004, applicant respectfully submits that prosecution is closed and the application is under appeal and not under examination. In this instance, the only recourse permitted under the Rules of Practice are defined in 37 CFR §1.193 "Examiner's answer and reply brief." Accordingly, please note Section 1.193(a)(2) which states, in part:

An examiner's answer must not include a new ground of rejection....

Considering now the following passage quoted from the final rejection of July 24, 2003, (Exhibit D):

Claims 1-8 are rejected under 35 USC §101 because the disclosed invention is inoperative and therefore lacks utility. The disclosed invention is inoperative because it contradicts the doctrine of conservation of energy.

As developed above in detail MPEP §608.03, which was cited to support the final rejection, states:

...If operativeness of a device is questioned, the applicant must establish it to the satisfaction of the examiner, but he or she may choose his or her own way of so doing.

“Operativeness” was questioned and applicant exercised his right to prove “operativeness” under MPEP §608.3 by a timely filed Rule 132 Declaration.

“Perpetual Motion” was not the ground for rejecting the instant application. Of particular importance is the rejection in the Official Action dated November 7, 2002, repeated again in the July 24, 2003, Final Rejection, in which all eight claims were dismissed on the ground of “operativeness”

Apart from the fact that applicant makes no claim to a perpetual motion machine, the Communication under consideration nevertheless attempts to assert “perpetual motion” as a new ground of rejection. This assertion of a new rejection ground not only violates the passage in Section 1.193(a)(2) quoted above, but the further “requirement” to provide a “working model” also contradicts the express provisions of MPEP §608.03.

The Communication in question, moreover, does further violence to Section 1.193. In this respect, attention now is invited to Section 1.193(b)(2) which, in part, states:

Where prosecution is reopened by the primary examiner after an appeal or reply brief has been filed, appellant must exercise one of the following two options to avoid abandonment of the application:

....

(ii) Request reinstatement of the appeal. If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (§§1.130, 1.131 or 1.132) or *other evidence* are permitted [emphasis supplied].

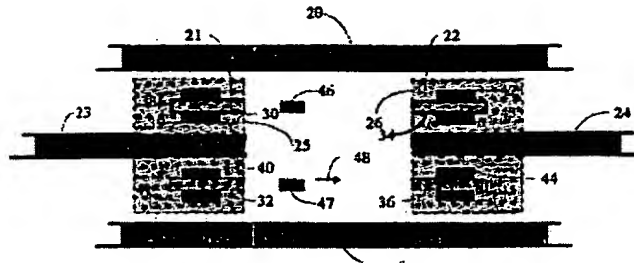
Thus, assuming *arguendo* that the appeal is properly dismissed, applicant, in submitting this Request for Reinstatement is prohibited by the Rules of Practice from supplying the requested working model of the invention!

c) September 15, 2004 Official Action:

1. Claims 1 through 8 are rejected under 37 CFR 1.83(a) in that the drawing does not show every feature specified in the claims:

More specifically, the Official Action states that the “means for converting the kinetic energy” must be shown in the drawing. This recited feature of independent Claim 1, moreover, carries through all of the balance of seven claims that depend directly or indirectly on Claim 1. Applicant respectfully submits that this feature of the invention is illustrated in Figure 3 of the drawing, reproduced below:

Fig. 3



The complete limitation stated in Claim 1 is as follows:

...means for converting the kinetic energy from said object at second [sic] moving system into electrical energy.

Turning now to paragraph 77 of the Specification as filed:

For instance, if the objects 46, 47 are magnetized when they are received in the openings 34, 36 with which the ejectors 38, 40 are in alignment, and the reception devices 43, 44 are electrically conductive coils, the magnetic fields of the objects 46, 47 will, when moving past the coils that comprise the reception devices 43, 44, generate electrical pulses in the coils, in accordance with the energy transferred.

Applicant respectfully submits that the “means for converting the kinetic energy...into electrical energy” could not be more clearly described and shown in the drawing – transformers, dynamos, electrical motors, the list is almost endless, each rely on the interaction between a magnetic field and an electrical conductor. Consequently, applicant urges that this feature of the invention is illustrated in Fig. 3 of the drawing and, as such, this objection should be withdrawn.

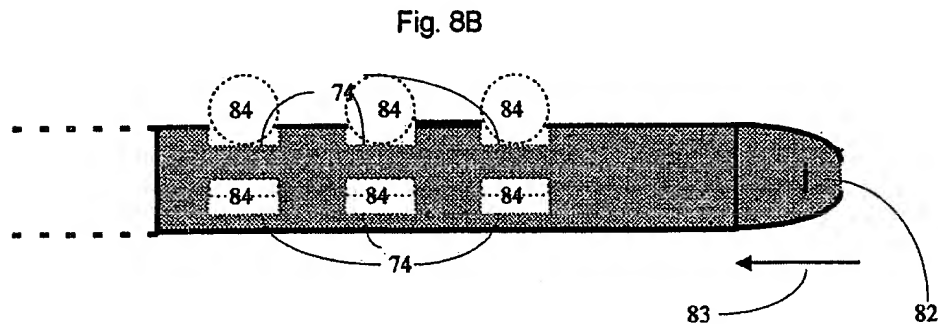
Further alleged enumerated deficiencies in the drawing for failure to identify elements are as follows:

- a) “Sleeve or Tube 73” (from Fig. 8B) in Fig. 6, as described in the specification (page 33, line 9)

Fig. 8B does show the sleeve or tube in question and only through an error in checking the drawing was the reference numeral 73 omitted from Fig. 8B. Thus, as stated in paragraph 100 of the Specification:

Each tube 73 has openings 74 down its sides...

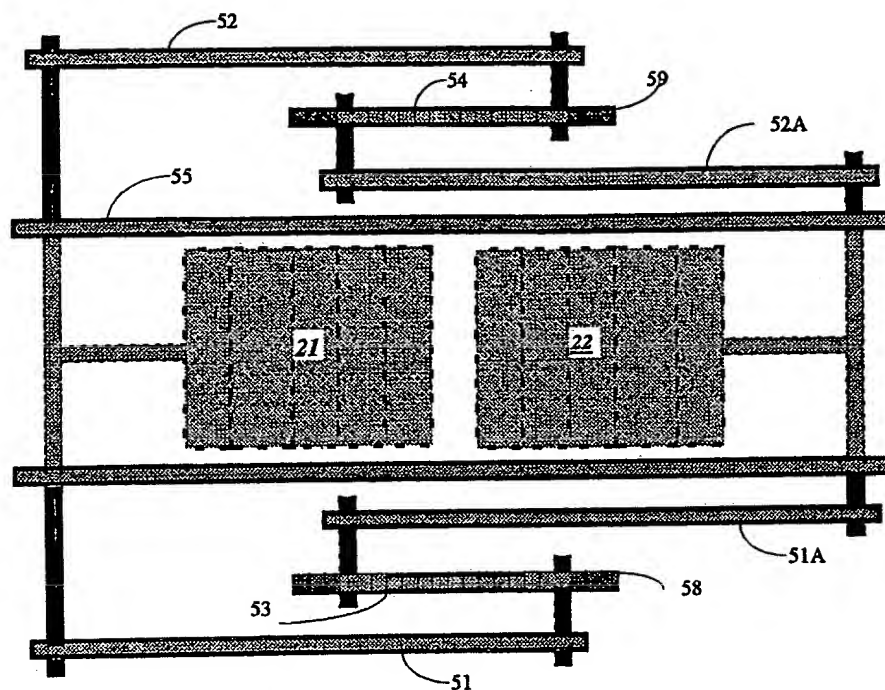
The print of Fig. 8B reproduced below does show the openings 74 in the tube in question. Clearly, deleting the reference numeral 73 from the Specification would overcome this typographical error and avoid any need to amend the drawing. In any case, no "new matter" would be added to the application.



- b) The drawing fails to show the structural relationship between rods, connected to cylinders 21 and 22, and rods 51 and 51A (Fig. 6 and 7).

In the application as filed, Fig. 6 is a front elevation of another embodiment of the invention (Specification, paragraph 18). As shown in Fig. 6, numerals 21 and 22 refer to **pistons** (Specification, paragraph 93) and do not refer to cylinders as erroneously stated in the **September 15 Official Action**. As further stated in paragraph 93, the piston 21 is connected to drive shafts 51 and 52; the piston 22, in turn, being connected to the drive shafts 51A and 52A. These structural features are clearly illustrated in Applicant's Fig. 6, reproduced below:

Fig. 6



In the circumstance, it is urged that this objection to the drawing has its basis in the misunderstanding that the numerals 21, 22 in Fig. 6 refer to respective pistons, and do not refer to cylinders. Accordingly, withdrawal of this objection to the drawing is respectfully requested.

- c) The drawing fails to show the structural relationship between rods 72 and 82 (Fig. 8A and 8B) with the rest of the assembly.

Once more, it is urged that the objections to the drawing arise from a misunderstanding of the Specification and Drawing. Thus, **the rod is identified in Fig. 8A by the reference numeral 71 (and not, as incorrectly stated in the September 15 Official Action, numeral 72 which identifies the end of the rod 71).** In this respect, kindly note the following passage in paragraph 99 of the Specification as filed:

...Each end 72, of which only the end 72 is shown in Fig. 8A, of the rod...near the end of the stroke of the rod 71.

The objection to Fig. 8B, moreover, also seems to be based on a further misinterpretation of the Specification. Thus, as established in paragraph 100 of the application as filed, **reference numeral 82 identifies not the rod, but a check or one-way valve, e.g.**

...The closed, far end of the tube has a check or one-way valve 82

(for the compressible fluid) that is closed to prevent actual contact of the end of the rod 71...

Finally, in objecting to the drawing under MPEP ¶608.02(j) the position is taken that no drawing [sic] or view is suitable for publication in the Official Gazette.

Applicant's counsel, relying on the May 2004 Revision to the MPEP is not able to locate ¶608.02(j). This portion of the Manual publishes ¶608.02(i) (Transfer of Drawings From Prior Applications) followed by the very next paragraph ¶608.02(m) (Drawing Prints).

In a good faith effort to address this objection to the drawing, however, attention is invited to MPEP ¶1302.09 which states in part pertinent to this matter:

...If there is no figure illustrative of or helpful in understanding the claimed invention, no figure need be selected.

Accordingly, because a view suitable for publication in the Official Gazette is not necessary, applicant strongly urges that this objection to the drawing, based on an apparently non-existent MPEP paragraph be withdrawn.

In final comment on the matter of applicant's drawing, the Board is respectfully urged to recall that at the time the instant application was filed (August 23, 2001), filing an application for patent and prosecuting that application to allowance with an informal drawing was a permitted and accepted practice, which practice was adopted in this application.

2. The specification is objected to under 37 CFR 1.71 because it does not contain a description of the invention adequate to enable a person skilled in the art to make and use the invention, e.g. the disclosure is replete with statements that are confusing, incorrect or contradict laws of physics:

More specifically, the following introductory sentence in paragraph 2 of the application as filed is subject to objection:

No-one is really certain about the physical principles that enable an electrical conductor, when moved relative to a magnetic field, to produce an electrical current. Similarly, the reason why an electrical current, flowing through a conductor, creates a magnetic field also escapes our understanding.

because it is alleged to be "contradictory or speculative." Applicant is puzzled by this objection. The dictionary defines the word "contradiction" as an inconsistent statement (cf page 316 of "Webster's New World College Dictionary, Fourth Edition ©2000). Where, in the foregoing quotation is there anything that is inconsistent? The physical phenomena described were subject to experimental verification five hundred years ago!

In a similar manner, the word "speculative" also seems to be inappropriate in that the term relates to something characterized by conjecture or uncertainty (cf page 1377 of the New World Dictionary attached). Applicant submits that there is nothing uncertain about these interactions between electrical currents and magnetic fields. One is tempted to write that the only speculative

features of these phenomena are the various theories advanced through the past few centuries to explain why they occur!

Accordingly, it is urged that this rejection is so improperly expressed that it is not possible for applicant to address it in greater detail than that which has been stated immediately above.

Further objections are raised in connection with “a concept of generation based on ‘excess’ energy in a closed system” on page 4, lines 11 to 16 of the Specification. A careful study of this passage in the application as filed fails to disclose any suggestion of “excess” energy generation. As a result, it is not possible at this writing to respond more fully to the objection.⁶

An additional objection is raised to an alleged statement about “transformations between systems” on page 6, paragraph 22. There is no paragraph 22 on page 6.

For completeness’ sake, applicant did study paragraph 22 and that paragraph does refer to “transformations between systems”. The objectionable feature of this statement is based on an allegation that there are not two moving systems involved in the practice of the invention, but one moving system. Applicant respectfully defers consideration of this rejection to the discussion of claim rejections under the “Claim Rejections 35 U.S.C. §101” topic heading.

Finally, the clarity of the “word” “str” on page 6, line 2 of the Specification is subject to objection.

Apart from the fact that the acronym “STR” does not appear on applicant’s copy of specification, p. 6, line 2, the term “str” does appear for the first time in the first line of paragraph 20 in the application as filed, quoted below:

Most scientists use Einstein’s special theory of relativity (str)...

Thus, applicant in drafting the application relied on the established convention of identifying an abbreviated phrase by placing the abbreviation in parenthesis immediately after the first time the entire phrase is used. It is respectfully urged that applicant is entitled to believe that the Patent and Trademark Office also understands and accepts this convention.

3. Claims 1 through 8 are rejected under 35 USC 101 on the ground that they are not supported by a known asserted utility or a well established utility:

Applicant respectfully responds to these grounds of rejection under each of the three topics noted below. Each of these topics, moreover, are individually addressed by applicant in the remarks that follow the enumeration.

Thus, it is urged that the rejection is based on:

- a. Malapropisms;
- b. Incorrect statements of physical principles; and

⁶ Possibly the Office Action in this instance does not refer to the Specification as stated, but refers to page 4, lines 11 to 16 of applicant’s Declaration under Rule 132 (Evidence Appendix). This portion of the Rule 132 Declaration analyses the data that establishes generation of an increment of energy $2E_{2A}$ that is central to the invention.

c. A mistaken belief that the invention is directed to one and not two moving systems.

a) Malapropisms

Earlier in this Brief with respect to the objection to Fig. 8B of the drawing, applicant was compelled to correct the error in the September 15 Official Action in which the pistons 21, 22 are improperly identified as “cylinders”. Once more, on page 7, first full paragraph of the September 15 Official Action this error is repeated:

...which is utilized for moving cylinders...

Applicant respectfully submits that this misidentification of described components not only prevents applicant from addressing the specific rejection in a truly satisfactory manner, but also raises a fair question about the grasp of the claimed subject matter.

A further malapropism, for lack of a better term to describe the situation, is advanced on page 7, first full paragraph of the September 15 Official Action. As expressed therein:

The concept of the claimed system is in the premonition
that one can generate energy⁷...

As defined on page 1134 in “Webster’s New World College Dictionary”, Copyright 2000, a “premonition” is:

...a warning in advance; a forewarning a feeling that something,
especially something bad will happen...

What could possibly be bad or foreboding about generating energy? This use of one word when from the context of the rejection (or objection) it seems that something else was intended has been considered above with respect to the patent misuse of the terms “contradictory or speculative” in connection with one of applicant’s background introductory statements. Again, in this instance, it seems that something else was intended, but the intent is not clearly conveyed through the terms used.

How, in this circumstance, is it possible for applicant to meet the rejection in a satisfactory manner when the nature of the rejection is not stated with clarity? Alternatively, it appears that the puzzling use of these terms suggests an inadequate understanding of the invention.

Accordingly, applicant respectfully submits that the rejection of Claims 1 through 8 inclusive on the grounds of a “premonition that one can generate energy...” and the energy “...utilized for moving cylinders...” be withdrawn.

b) Incorrect Statements of Relevant Physical Principles

The September 15 Official Action quotes a “Principal [sic] of the Conservation of Energy” from an uncited source as:

⁷ As described below, applicant’s apparatus does not “generate” energy but converts kinetic energy into electrical energy.

“...The sum total of all the energy within any given boundary through which energy is not allowed to pass, remains constant.”
(September 15, 2004 Official Action emphasis)

Unfortunately, in the absence of a citation that identifies the source for the foregoing statement, applicant is not able to determine if the source for the quotation is authoritative; is subject to some modification; or the like. In any event, the “principle”, as stated, has been known to be invalid for a century. Properly stated, the correct principle is one of conservation of mass/energy. A glance at any star shows a stellar mass being converted into radiant and other forms of energy which then spread throughout the universe. Clearly, mass is being converted into energy at a very high rate and energy is converted to mass through, for example, the conversion of a photon, or corpuscle of light, into an electron and a positron. Summed up in a simple but profound equation,

$$E = mc^2$$

where:

E = energy

m = mass

c = speed of light.

As a result, applicant advances the fact that at this writing, no one knows if the energy of the universe is increasing, remaining the same or decreasing; the mass of the universe is thought to be doing the opposite of the energy. Thus, in view of our present state of knowledge, it is not possible to place energy impermeable barriers around any system, as proposed in the rejection. Illustrative of the last point, please consider a piece of matter, e.g. wood, contained within a small energy impervious (and obviously imaginary) boundary. The wood experiences changes as its carbon 14 and other elements undergo decay and emit energy at the expense of mass, causing this “closed” system with its energy impermeable boundary to undergo, nevertheless, a change in energy.

But, applicant proposes that all of the rejections arising from theoretical speculations about the invention fail before applicant’s experimental data presented in the Rule 132 Declaration (Evidence Appendix) that was filed in response to the First Official Action issued in this case. More particularly, attention is invited to page 4 of the Rule 132 Declaration and specifically to the Table of Experimental Results and the first paragraph under “Conclusions”, reproduced below:

* * *

Results

The experimental results are shown in Table 1. Due to the lack of precision with these present experimental components, all numbers are rounded to the nearest millimeter, or to the nearest whole number in the case of fractions.

TABLE 1: Experimental Results						
Condition	Spring Length (mm)		Δx_{CA}	$(\Delta x_{CA})^2$	$E_{CA} = (\Delta x_{CA})^2 (k/2)$	E_{CA}/E_{2A}
	Original	Compressed				
C=1 (Cons. Energy)	33	26	7	49	$49(k/2)$	2
C=2 Cantilevered, One Screw, Immobilized	33	28	5	25	$25(k/2)$	1
C=3 Cantilevered, Both Screws Moving	33	23	10	100	$100(k/2)$	4

Conclusions

With respect to condition 1, the laws of conservation of momentum and conservation of energy both pertain. Both conservation of momentum and conservation of energy also pertain in condition 2. For condition 3, the law of conservation of momentum pertains and the law of conservation of energy is believed to pertain, the 'extra' energy ($2E_{2A}$) that appears in condition 3 coming from some source not previously recognized in such cases.

* * *

Consequently, the experimental data adduced in the prosecution of this application irrefutably establish the fact that an increment of energy ($2E_{2A}$) from some previously unrecognized source does appear when the two screws used in the experiment are moving relative to each other and this is the physical principle on which the claimed structure is based.

This Honorable Board is requested to consider as significant the fact that at no time in the prosecution of this application to this writing has applicant's experimental data or experimental methodology been reviewed on the record. Applicant further requests that the Board in passing judgment on the claimed invention consider a basic rule of pleading – those matters that are not denied are accepted as true.

In summary, applicant respectfully urges that the physical principle on which Claims 1 through 8 are rejected is in error and that speculations about energy impermeable barriers are not consonant with our present physical understanding. That applicant's experimental data as set forth in the Rule 132 Declaration proves, moreover, the appearance of some increment of energy hitherto not noticed, dismissed or ignored. This proof establishes the principle on which the claimed invention relies.

c) The Invention is Directed to One and Not Two Moving Systems

By and large the mistaken belief that the invention is directed to one and not two systems has been analyzed in b) immediately above. Apart from the fact that the experimental data in applicant's Rule 132 Declaration refute that theory, to appreciate the advance that characterizes

the claimed invention in more graphic terms, below is a quotation from a letter sent to undersigned counsel by the applicant in response to a request for applicant's comments on the September 15 Official action:

...When a fighter pilot shoots at an oncoming enemy aircraft, the enemy pilot sees the bullets impact with much greater energy than they were expelled from the fighter pilot's guns; the speed of the impact is the sum of the two planes' speed plus the speed with which the bullets leave the guns; the energy of impact is one-half the mass of each bullet times the square of the total speed as seen by the enemy pilot. Anyone who has ever been in the position of being the enemy pilot will attest that the impact of head-on bullets causes their aircraft to shudder and slow noticeably.

4. Claims 1 through 8 are rejected under 35 USC 112 on the ground that one skilled in the art would not know how to use the invention:

Independent Claim 1 and Claims 2 through 8, inclusive, that depend directly or indirectly on Claim 1 are rejected under 35 U.S.C. §112 on the ground that the "means for converting ...[sic]⁸ kinetic energy... into electrical energy" recited in independent Claim 1 renders these claims unpatentable because the Specification fails to provide an enabling disclosure.

Applicant respectfully submits that the technique for converting the kinetic energy into electrical energy has been exhaustively explained above in connection with the objection to the drawing under 37 C.F.R. §1.83(a). More specifically, as shown in Fig. 3 of the drawing and as described in paragraph 77 of the Specification, repeated once more below for ease in reference:

For instance, if the objects 46, 47 are magnetized when they are received in the opening 34 36 with which the ejectors 38, 40 are in alignment, and the reception devices 43, 44 are electrically conductive coils, the magnetic fields of the objects 46, 47 will, when moving past the coils that comprise the reception devices 43, 44, generate electrical pulses in these coils in accordance with the energy transferred.

Applicant respectfully submits that no further description is required to develop the fact that the magnetized objects 46, 47 moving past conductive coils 43, 44 will convert the kinetic energy of the objects into an electrical current within the coils.

5. Applicant is required to furnish a working model of the invention under MPEP §608.03; 37 CFR 1.91:

The impropriety in asserting this demand, and applicant's right to prove the principles of his invention through his timely submission of a Rule 132 Declaration is reviewed exhaustively above in connection with the analysis of the July 24, 2003 Final Rejection. Please refer to the argument presented therein.

⁸ The precise phrase in claim 1 on appeal is: A **device** for converting...(emphasis supplied) and not "means" as incorrectly stated in the September 15, 2004 Official Action.

d) July 5, 2005 Official Action:

1. The brief does not satisfy the requirements of 37 CFR 41.37(c)(1):

It is respectfully submitted that the present Fourth Supplemental Brief overcomes this rejection.

2. The Declaration under 37 CFR 1.132 is found "moot" and is not considered evidence to overcome the rejection under 35 USC 101 (if MPEP ¶608.03 and 37 CFR 1.9).

"...and found moot." What can that phrase mean?

Webster's New World College Dictionary (©2000, p. 936) defines the term "moot" as "...not worthy of consideration or discussion because it has been resolved or no longer needs to be resolved".

Search the record of this prosecution and nowhere can be found any resolution or attempt at a resolution by the Examiner of the data presented in applicant's Rule 132 Declaration.

With respect to the objection that the Rule 132 Declaration is not considered "an evidence"[sic] it is respectfully submitted that by attaching a copy of the Rule 132 Declaration as an "Evidence Appendix" in accordance with 37 CFR 41.37(c)(ix) it now will be considered as evidence proving the principles of the claimed invention.

In summary, this appeal reflects a most disturbing situation in which Rules of Practice are disregarded or misconstrued; basic laws of physics are incorrectly stated; evidence proving the principles of the invention ignored; the drawing and the description of the invention are misread; an imaginary "...boundary, through which energy is not allowed to pass" is created; a carefully planned and executed experiment is ignored; a detailed theoretical analysis of the principles of the invention is summarily dismissed, all in a failed effort to defeat this application.

It is fundamental patent law that an applicant is entitled to an award of a patent in the absence of a proper ground for rejection. Nowhere in the record of the prosecution of this application is there anything that even approaches a proper ground for rejection.

With all due respect to this Board and the Office that it serves, correct these wrongs by reversing the decision of the Examiner in whole and allow claims 1 through 8, inclusive, now pending in this appeal.

Respectfully submitted,

LANGDALE & VALLOTTON, LLP



JOHN P. SINNOTT

Attorney for Applicant

US Patent and Trademark

Office Registration No. 21,001

November 14, 2005
PO Box 1547
1007 N. Patterson Street
Valdosta, GA 31603-1547
P:(229) 244-5400
F:(229) 244-5475

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER Art Unit: 2834

Serial No.: 09/935,936

Filed: August 23, 2001

For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Appendix, 37 CFR §41.37(c)(1)(viii)

Claims appendix

What is claimed is:

1. A device for converting kinetic energy into electrical energy comprising, a first moving system, a second moving system for relative movement toward and away from said first moving system, an object for transfer between said first moving system and said second moving system for developing the kinetic energy relative thereto, means for converting the kinetic energy from said object at second moving system into electrical energy.
2. A device according to claim 1 further comprising discharge means for transferring said kinetic energy extracted object from said second moving system to said first moving system to develop the kinetic energy relative to said second moving system, and further kinetic energy extracting means for converting kinetic energy from said object at said first moving system into electrical energy.
3. A device according to claim 1 wherein said object is magnetizable.
4. A device according to claim 1 wherein said object is a rod for selective reciprocation between said first and second moving systems.
5. A device according to claim 3 wherein said means for converting the kinetic energy from said object into electrical energy has an electrically conductive coil.
6. A device according to claim 2 wherein said discharge means has an electrically conductive coil.
7. A device according to claim 1 wherein said first and second moving systems each have respective drive shafts coupled thereto, fly-wheels connected to said drive shafts and driven thereby, each of said fly-wheels having gear teeth, gears meshing with said fly-wheel gear teeth, driven by and driving said meshing gears for selectively producing electrical energy and kinetic energy.
8. A device according to claim 4 wherein said rod comprises a shaft having a transverse array of ridges formed along the length thereof, and an end to said shaft, a tube for said second moving system for selective mating with said shaft, said tube having openings formed therein, and gears protruding through said respective openings, said gears meshing with said ridges and being driven thereby as said shaft reciprocates between said first and second moving systems, motor generators coupled to said gears and being driven thereby to selectively produce electrical power and to drive said shaft.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appendix, 37 CFR ¶41.37(c)(1)(ix)

Evidence appendix

Attached herewith is applicant's Declaration under 37 CFR ¶1.132. This Declaration was filed by applicant on March 7, 2003 as a part of applicant's response to the first substantive Official Action, mailed from the Patent and Trademark Office on November 7, 2003.

The Rule 132 Declaration in question was entered by the Examiner in that the July 24, 2003 Final Rejection states on page 3 thereof:

Applicant's arguments filed on March 7, 2003, have been fully considered but they are not persuasive....Applicant failed to demonstrate that his invention, as claimed, is operable.

Herewith is applicant's Rule 132 Declaration.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER Art Unit: 2834
Serial No.: 09/935,936
Filed: August 23, 2001
For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Declaration Under 37 C.F.R. § 132

I, the undersigned Dr. Donald G. Carpenter, residing at 3010 River Mist Grove, Colorado Springs, CO 80922-5201 declare as follows:

I am a retired Air Force Colonel, pilot and Commander who has strong credentials and success in both academic and industrial careers.

Academically, I have a Ph.D. and a master's degree in nuclear engineering, plus bachelor degrees in physics, electrical engineering, and electronic engineering technology. I taught physics for seven years at the United States Air Force Academy, holding during that time an Associate Professorship. I created the space physics course at the Air Force Academy, editing and writing much of the 700+ page textbook for that course. I retired as a full Professor of physics (Chapman College) and full Professor of electrical engineering (Colorado Technical University), and Dean of electrical engineering and computer engineering (Colorado Technical University).

My published works include 27 scientific papers and books. Other scientific efforts include numerous published letters, abstracts and invited talks. I was, while on active duty in the Air Force, a recipient of the Theodore von Karman Award (for science and engineering) for dramatic improvement in the accuracy of the SPACETRACK System for tracking Earth-orbiting satellites.

Also, while on active Air Force duty, I received the Legion of Merit for management of the 16th Surveillance Squadron (a SPACETRACK radar organization in the Aleutian Islands). I subsequently commanded a worldwide AF operations organization. My last active duty position before retiring from the Air Force was Chief of Space Surveillance. I was, moreover, in charge of systems engineering (electronic) for Contel's contract to provide ground/space telecommunications at Falcon Air Base (Space Command); and was a principal engineer in enabling Falcon to function well.

Following my retirement from active Air Force duty I worked for COLSA as a telecommunications consultant to the Royal Saudi Air Defense Forces.

Among my further technical and scientific achievements, I was the first scientist to warn and prove theoretically (*Journal of Geophysics*) that nuclear reactors in orbit about Earth would

significantly increase the geomagnetically-trapped corpuscular radiation; subsequent Japanese experience with Russian Earth-orbiting reactors proved my analysis to be correct.

I also have held various other positions such as Senior Research Fellow for the International Society for Scientific Enquiry (ISPE).

Experimental Apparatus

The Experimental Apparatus equipment described herein is of minimum accuracy and precision, difficult to use, but quite inexpensive (see Figure 1). It is similar to that of a double pendulum. A wooden bar is supported at each end. Hanging by stranded picture wires from the wooden bar are two identical metal hex-head screws ([5/8]-11 4) so that, at the bottom of their respective swings, the heads of the screws engage endwise (and compress) a spring mounted between them. Each screw is suspended by two stranded wires, and each of those wires has one end attached to its own small hook screwed into one side of the wooden bar with the other end of the wire similarly attached to the other side of the wooden bar.

The screws are operated by swinging each of them back from the other, gaining potential energy as they necessarily rise to a pre-selected 'standard location'. They are released, allowing the potential energy to convert to kinetic energy as they return to their former lower positions and deposit the kinetic energy into the spring. The spring is made of 15 turns of number 19 steel wire coiled 33 millimeters long and of 11 millimeters outside diameter. Each screw head is larger than the diameter of the spring.

As shown in Figures 2 and 3, three paper cylinders are needed, with the first nested inside the second which is nested inside the third, so that each of the two nested cylinders slide relatively freely within the next larger cylinder. Their summed length needs to total greater than the length of the spring, each cylinder itself being less than 50% of the length of the spring (Figure 1). They are positioned in partially-nested fashion within the spring (Figure 3) so that their combined partially-nested length is the same as that of the 33 millimeter spring. Together, the spring and its enclosed partially-nested paper cylinders form an energy sensor. It is necessary that the paper cylinders have a small but non-zero amount of friction with respect to each other. Too little friction and the impact of the screw will cause the paper cylinders to over-respond; too much friction and the paper cylinders will not respond adequately. "Super Glue," a trademarked product is suitable for making the paper cylinders, but care must be taken to insure that the friction among the cylinders is adequate for the purpose of the experiment.

Experiment and Resultant Data

The experiment is tried three different times under each of three different conditions. The first condition is that the spring is suspended on thread below the wooden bar such that the screw heads will engage and compress it at their maximum speed (bottom of their paths). Before each trial, the partially-nested paper cylinders are placed within the spring so that one end of the largest cylinder is at one end of the spring and the contiguous opposite end of the smallest cylinder is at the other end of the spring. The length of the spring is recorded (x_0). Each screw is drawn back to its standard location, and they are released simultaneously. As the spring is struck on both ends approximately simultaneously and compressed, the total contiguous length of the

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partially-nested paper cylinders is reduced as shown in Figure 4. The new total length of the paper cylinders is measured after the system has settled down, and that length is recorded (x_1). The difference between it and the recorded, uncompressed spring length yields a measure ($x_0 - x_1 = \Delta x_1$) of the amount the spring was compressed. After this has been done three times, the results are averaged, and the average value (Δx_{1A}) is recorded to a precision of one millimeter for this first condition.

The second condition, illustrated in Figure 5, is that the spring is bonded (with Super Glue) by one end to the head of Screw 1 so that the free end of the spring rests loosely against the head of Screw 2. One end of the partially-nested cylinders is against the Screw 1 end of the spring while the other end of the partially-nested cylinders is at the other end of the now-cantilevered spring. Screw 1 is fixed in position so that it will not move when the spring is struck by the head of Screw 2. Screw 2 is withdrawn to its standard position and released. Again the resultant total length of the nested cylinders (x_2) is measured, and the magnitude of the spring compression found ($x_0 - x_2 = \Delta x_2$). After this has been done three times and the results averaged, the average value (Δx_{2A}) is recorded to a precision of one millimeter for this second condition.

The third condition, shown in Figure 6, is similar to the second condition in that one end of the spring is still bonded to Screw 1, and the free end of the spring rests loosely against the head of Screw 2. One end of the partially-nested cylinders remains at the other contiguous end of the cantilevered spring. Screw 1 and Screw 2 are each withdrawn to their standard locations and released simultaneously. Again the total length of the nested cylinders (x_3) is measured, and the magnitude of the spring compressed found ($x_0 - x_3 = \Delta x_3$). After this has been done three times and the results averaged, the average value (Δx_{3A}) is recorded to a precision of one millimeter for this third condition.

Theory

The spring and nested cylinders form an energy sensing device. When, as shown in Figure 5, a single moving screw and a single stationary screw compress the spring, the magnitude of the Force (F) exerted on the spring at each instant is $F = k(\Delta x)$, where k is the spring constant and (Δx) is the amount of compression. Force through differential distance ($d[\Delta x]$) is the differential Energy (dE) or work, which in integrated form for the second condition is $E_{2A} = (\Delta x_{2A})^2(k/2)$. The value of E_{2A} is the potential energy of a suspended single Screw before release from its standard location, and that same Screw's kinetic energy as it initially encounters the near end of the spring.

The value of E_{1A} is the average of the sum of the potential energies of the two Screws ($E_{1A} = 2E_{2A}$) that is deposited into the spring. Note that this conforms to the law of conservation of energy, and should be equal to approximately two times the potential energy of one screw.

The value of E_{3A} (illustrated in Figure 6) is a bit more of a problem for both minor and major reasons. The spring and nested paper cylinders are now part of Screw 1. The law of conservation of energy says that, when viewed from the position of the experimenter, the energy measured must equal approximately the sum of the potential energies (E_{1A}) of the two screws at their standard locations, which is about two times the potential energy (E_{2A}) of one screw at its

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standard position. The word approximately is used because the mass of Screw 1 now includes the mass of the spring and nested paper cylinders with glue. This, though, is a minor problem because the combined mass of the spring, nested paper cylinders, and dried glue is a very small fraction of the mass of a screw. The increase in energy expended is, thus, a minor fraction of the kinetic energy of one screw alone.

The major problem is that the energy measuring device is now part of Screw 1's system. It does not 'see' itself as moving but does see the Screw 2 system approaching a speed $2v$. This view is part of the concept first enunciated by Jules Henri Poincaré*: the laws of physics are the same in every frame of reference that is moving linearly with respect to each other. This means that $E_{3A}=4E_{2A}=2E_{1A}$ instead of $E_{3A}=2E_{2A}=E_{1A}$, as anticipated by the law of conservation of energy. Thus, because $E_{3A}-2E_{2A}=2E_{2A}$, an extra $2E_{2A}$ becomes available that comes from some source, the nature of which is not at all clear at this writing.

Results

The experimental results are shown in Table 1. Due to the lack of precision with these present experimental components, all numbers are rounded to the nearest millimeter, or to the nearest whole number in the case of fractions.

TABLE 1: Experimental Results						
Condition	Spring Length (mm)		Δx_{CA}	$(\Delta x_{CA})^2$	$E_{CA}=(\Delta x_{CA})^2(k/2)$	E_{CA}/E_{2A}
	Original	Compressed				
C=1 (Cons. Energy)	33	26	7	49	$49(k/2)$	2
C=2 Cantilevered, One Screw, Immobilized	33	28	5	25	$25(k/2)$	1
C=3 Cantilevered, Both Screws Moving	33	23	10	100	$100(k/2)$	4

Conclusions

With respect to condition 1, the laws of conservation of momentum and conservation of energy both pertain. Both conservation of momentum and conservation of energy also pertain in condition 2. For condition 3, the law of conservation of momentum pertains and the law of conservation of energy is believed to pertain, the 'extra' energy ($2E_{2A}$) that appears in condition 3 coming from some source not previously recognized in such cases.

It must be emphasized that the device described in the instant patent application is no more a 'perpetual motion' machine than is a hydroelectric transformer. We do not know for

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certain at this time from where the extra energy comes for this simple experiment just as we also do not know why a wire moving at a right angle (relative to a magnetic field) through a magnetic field produces an electrical potential between the two ends of the wire. Thus, we do not know why a hydroelectric generator works.

Turning to the claimed invention, it matters not from whence this energy actually comes, it only matters that the claimed apparatus is a device that accesses this energy form without regard to the source of the energy.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

MARCH 4, 2003


Donald G. Carpenter

Reference

- * H. Poincaré, 'L'état Actuel et L'avenir de la Physique Mathématique' (The actual state and the path of mathematical physics) is the name of a lecture given at the St. Louis Conference, USA, 1904 September 24 (This information from the notes of Walter van der Kamp [died: 1998 January 26] was courteously supplied by C. van der Kamp 1998 August 25, Semi-private Communication).

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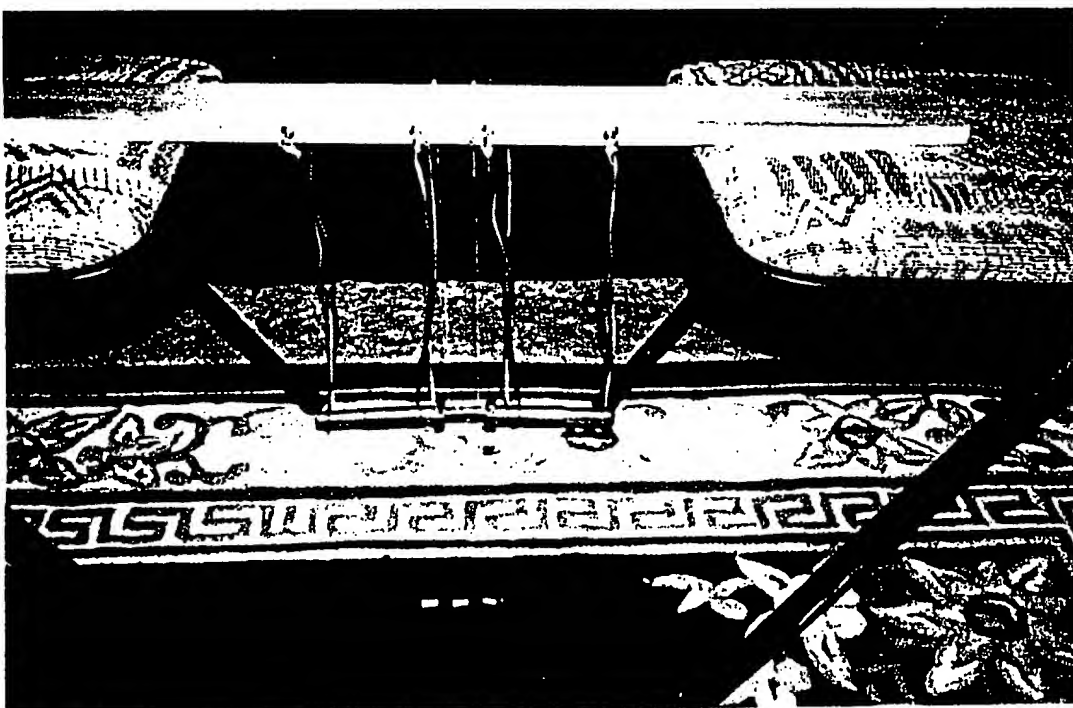


Figure 1

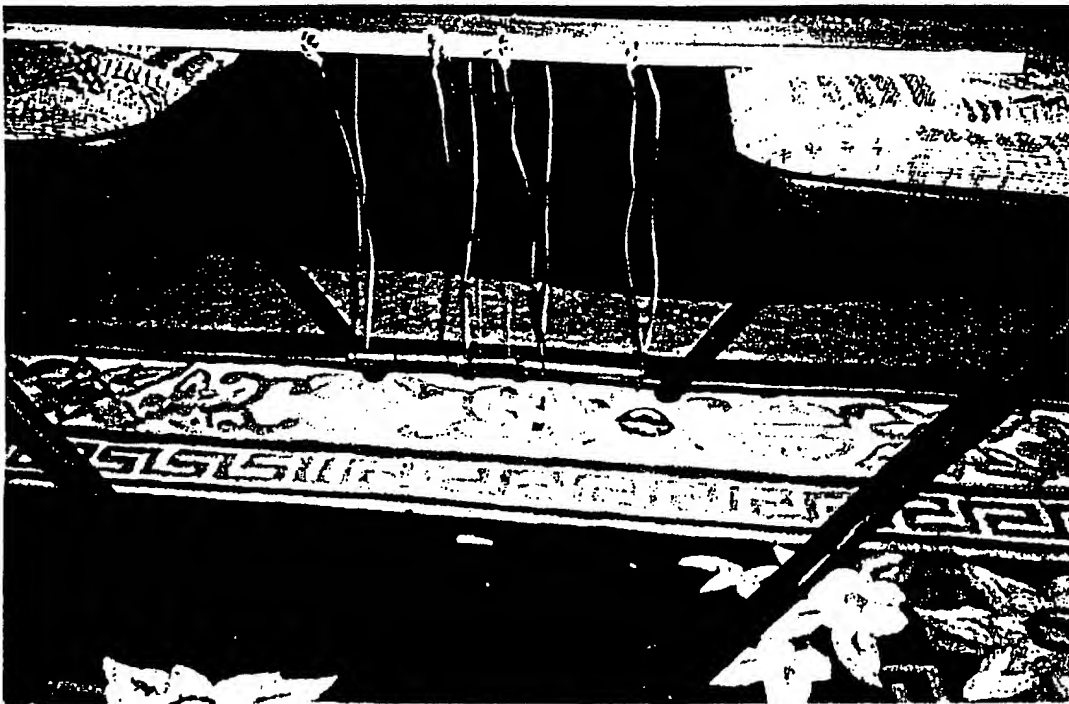


Figure 2

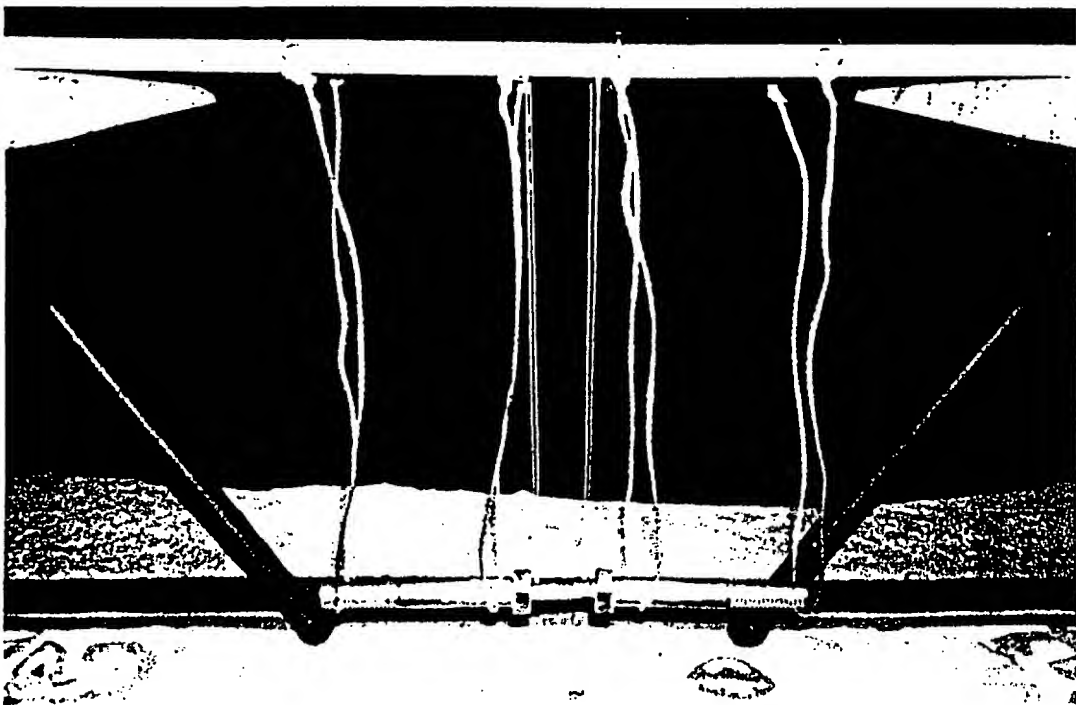


Figure 3

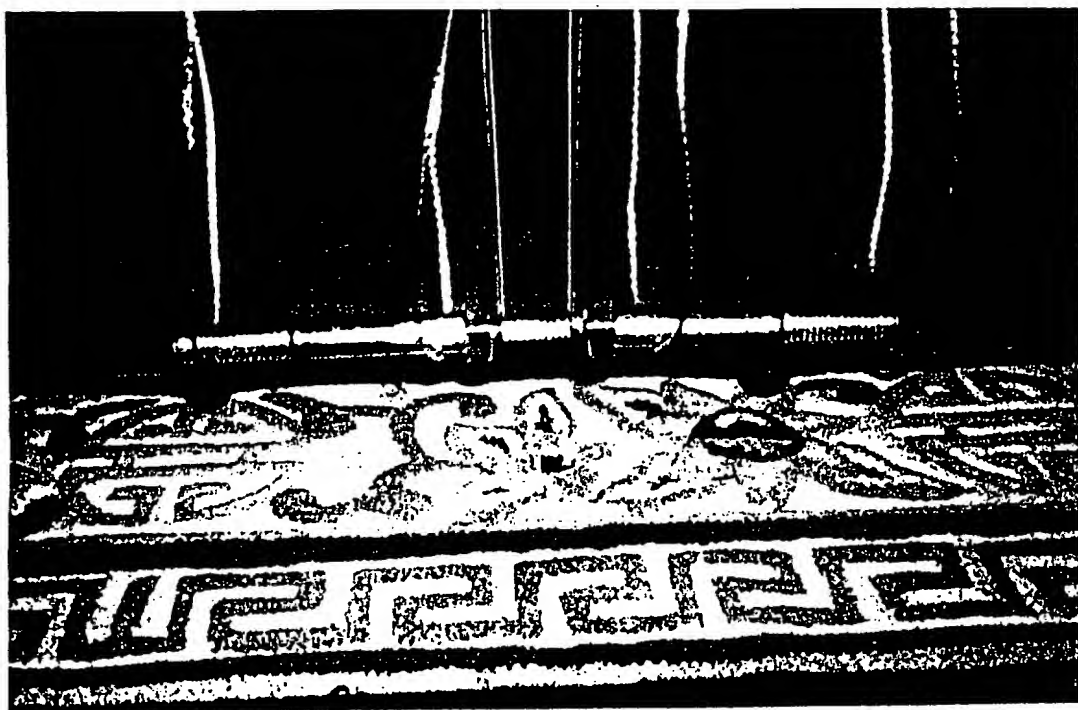


Figure 4

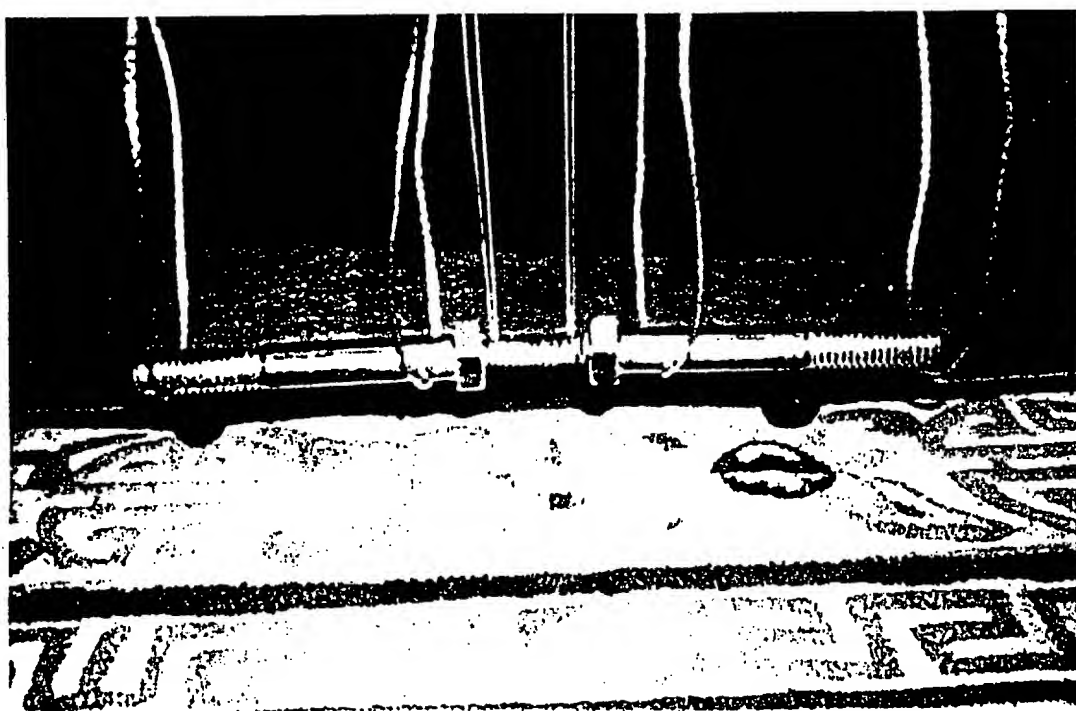


Figure 5

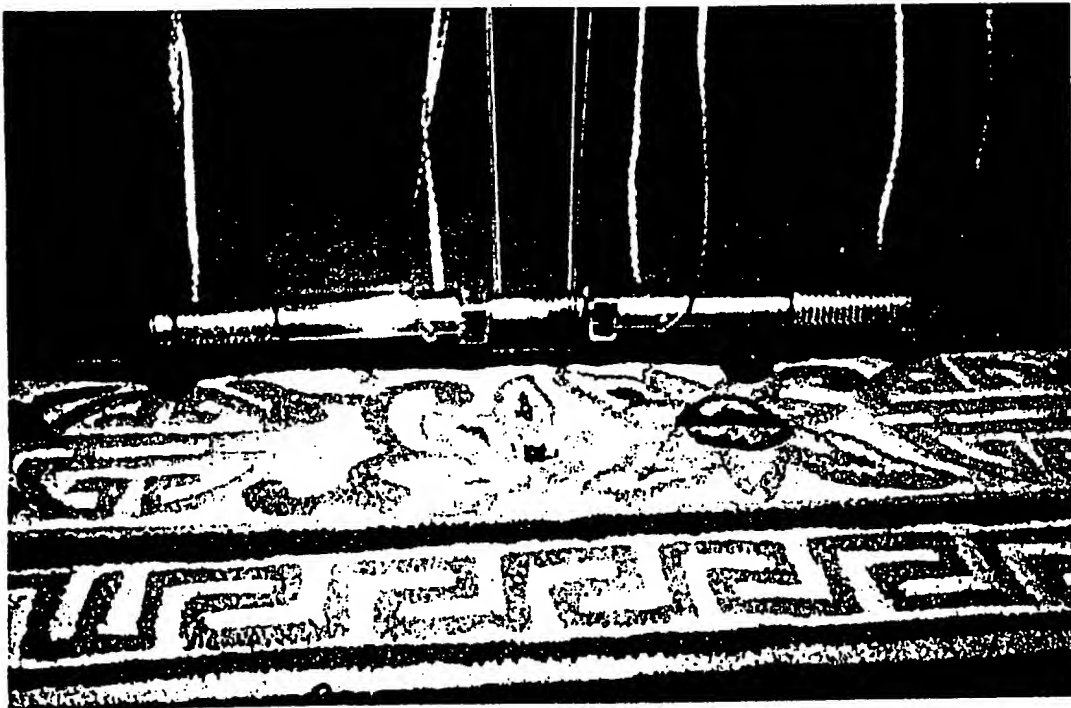


Figure 6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: DONALD GILBERT CARPENTER Art Unit: 2834

Serial No.: 09/935,936

Filed: August 23, 2001

For: Energy Conversion Technique Examiner: Nicolas Ponomarenko

Appendix 37 CFR ¶41.37(c)(1)(x)

Related proceedings appendix

There are no “related proceedings”.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Gilbert Carpenter **Examiner:** N. Ponomarenko

Application No.: 09/935,936

Filed: August 23, 2001 **Art Unit:** 2834

For: ENERGY CONVERSION TECHNIQUE

FOURTH REQUEST FOR REINSTATEMENT OF THE APPEAL

Honorable Commissioner of Patents and Trademarks
Post Office Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant's fourth supplemental appeal brief is submitted herewith and reinstatement of the appeal filed October 2, 2003, is earnestly solicited.

Respectfully submitted,

JOHN P. SINNOTT
Attorney for Applicant
Registration No. 21,001

November 14, 2005
P.O. Box 1547
1007 N. Patterson Street
Valdosta, GA 31603-1547
P:(229) 244-5400
F:(229) 244-5475



11-15-05

AF/22W

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald Gilbert Carpenter **Examiner:** N. Ponomarenko
Application No.: 09/935,936
Filed: August 23, 2001 **Art Unit:** 2834
For: ENERGY CONVERSION TECHNIQUE

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Art Unit 2834

Examiner Name Nicolas Ponomarenko

Attorney Docket Number 021215/S

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Firm Name	Langdale & Vallotton, LLP		
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